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FAX TO: UNITED STATES PATENT OFFICE, 1-571-273-8300  
From: Stephen T. Scherrer, Reg. No. 45,080

Items included in the present fax:  
For U.S. Patent Application No. 10/679,075

Transmittal Form (1 pg)  
Interview Summary Statements (9 pgs)

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PTO/SB/21 (01-09)

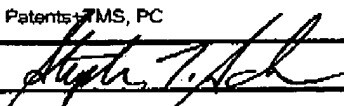
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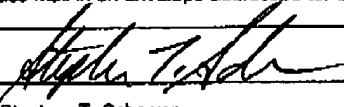
<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/679,075	
	Filing Date	May 22, 2006	
	First Named Inventor	DURHAM, Steven	
	Art Unit	3633	
	Examiner Name	PHI A	
Total Number of Pages in This Submission	10	Attorney Docket Number	ECS-P-09-001

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Interview Summary Statements (9 pgs)
Remarks		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Patents RMS, PC		
Signature			
Printed name	Stephen T. Scherrer		
Date	02/20/2009	Reg. No.	45,080

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Typed or printed name	Stephen T. Scherrer	Date	02/20/2009

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
AMENDMENT

APPLICANT: DURHAM, Steven

EXAMINER:A, Phi Dieu Tran

ATTY. DOCKET NO.: ECS-P-09-001

GROUP ART UNIT: 3633

FILING DATE: Oct. 3, 2003

SERIAL NO.: 10/679,075

INVENTION: "ENERGY GENERATING SHELTER SYSTEM AND METHOD"

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

INTERVIEW SUMMARY STATEMENTS

SIR:

Applicants wishes to place on the record the substance of interviews conducted between the Applicant, the Examiner, Mr. Mike Swope and Mr. Richard Dellacroce on December 30, 2008 as well as between the Examiner and the undersigned on February 19, 2009.

December 30, 2008 Interview

The substance of the December 30, 2008 interview is provided by Applicant, as the undersigned was not present at this interview. The undersigned hereby presents Applicant's account of the Interview dated December 30, 2008, and takes no position on the verity of said account.

At approximately 11:00am, Applicant called the patent examiner named Phi A. Tran who is prosecuting Applicant's U.S. Patent Application Nos. 11/438,195 and 10/679,075. On this day, the conversation started out and covered two topics. The first topic

was to inform the Examiner that the current formal patent claims that were on file were "on hold," regarding those claims being examined by the Examiner, and that newer amended patent claims were being supplementally and informally submitted for the Examiner's review in lieu of the former claims that were officially on file that were submitted by Chris Kilner, Applicants previous counsel. Shortly thereafter these new supplemental informal claims were sent by Applicant to the Examiner a week before the follow-up phone meeting that was to take place, so the Examiner would have time to review the newer claims that Applicant amended for his review and possible allowance.

Applicant did so to get confirmation from the Examiner before Applicant's formal claims were submitted for the record, in that these newly amended claims Applicant submitted would meet the Examiner's standard or were amended correctly for possible allowance or reconsideration which was subsequently not resolved or agreed to in the telephone interview on December 30, 2008. That conversation did not accomplish anything *per se* that was previously agreed to in the In-Person interview that occurred on December 3, 2008, wherein on December 3, 2008 the Examiner's actual written agreement was that he gave to Applicant instructions on what was needed to overcome the immediate rejections, which Applicant thought he did, with the supplemental claims that were sent to the Examiner to review via his personal fax number for his preview.

The Examiner, as agreed in writing in Applicant's formal In-Person meeting on December 3, 2008 did not resolve any of Applicant's claims that Applicant subsequently amended and submitted to him for his review on December 30, 2008, wherein Applicant specifically amended the claims as requested by the Examiner and his supervisor wherein in the follow-up phone interview with the Examiner subsequently, then stated that he would not look at my 10/ application claim adjustments or amendments and gave no reason whatsoever regarding the adjustments Applicant made in Applicant's applications. The 11/ application claims were responded to very briefly by the Examiner and when asked a direct question by Applicant's business partner as to why he was not going to allow Applicant's amended claims, Applicant felt the Examiner did not give a decent reason why he changed his mind not allowing Applicant's newly amended claims. The Examiner then stated that Applicant overcame only the Lane reference but did not comment on any of the other references that the Examiner had Applicant believe Applicant actually overcame in the In-person Interview, as indicated in Applicant's December 3, 2008 In-Person Interview Summary statement.

Applicant asked the Examiner on more than one occasion why he would not allow Applicant's new supplemental informally amended claims and he stated two different inconclusive reasons. The first reason was that he claimed that Applicant changed the claim

language too much, and the second reason as stated to Applicant's business partner was that Applicant did not overcome the references in Applicant's In-Person interview and in fact now the examiner had changed his mind completely in furtherance of the same conversation and now stated that Applicant's previous attorney and Applicant did not in fact overcome any of the combined references alone or in combination regarding the *Dinwoodie*, *Kowalski*, or *Lane* references in combination, or alone at all. The Examiner now stated after the fact that Applicant only overcome the *Lane* but that it was still a debatable argument and a strong reference by itself, but would not legitimize why he changed his mind after Applicant's and the Examiner's written agreement.

Applicant's business partner Mike Swope then asked the Examiner what needed to be done to overcome the new rejections over his new 102 art references, and the Examiner would not give Applicant a direct answer but gave other various reasons/excuses that circumvented this direct line of questioning when he was asked by all the parties on the phone, including Rich Dellacroce and Mike Swope's line of questions.

Subsequently, Applicant intervened and asked the Examiner why he changed his mind regarding Applicant's new amendments, and then the Examiner gave Applicant another excuse in that he claimed he found more new prior art which was (102) based prior art which Applicant subsequently listed in my current IDS. Applicant then

asked the Examiner whether Applicant could argue this art while Applicant had him on the phone and then Applicant proceeded to ask the Examiner why he thought this new art was relevant as a possible (102) prior art reference and he did not explain this at all which made Applicant somewhat upset. The Examiner then commented that he felt that the new prior art was more (102) based references than a (103) based combination references that he cited, and then the Examiner did not answer Applicant's question directly regarding him citing any other prior art that Applicant needed to be aware of and he said no but that he would let Applicant know in the next few days after Applicant had submitted the formal claims for the record.

As agreed with the patent Examiner in the December 3, 2008 In-Person Interview, the Examiner took it upon himself to change his original written agreement which Applicant followed though with and supplementally amended Applicant's claims, as agreed with the Examiner and his Supervisor. The Examiner had instructed Applicant to supplementally amend Applicant's current claims for both applications and Applicant did so, as instructed. Then the Examiner informed Applicant in the December 30, 2008 follow up phone interview that Applicant had in fact wasted his time in this meeting because Applicant supposedly did not argue Kowalski that well or at all. Then Applicant intervened into this conversation and asked the Examiner a direct question regarding Applicant

amending his claims further wherein Applicant felt that the Examiner had lied to Applicant after the fact and would not in fact re-evaluate my new informal supplemental patent claims that Applicant wanted to amend to his liking on the spot. The Examiner put something in writing on December 3, 2008, and Applicant really believed he would reconsider his new claims if Applicant did as instructed but this did not end up being the case and Applicant felt really disappointed in that the Examiner's previous written commitment Applicant felt was reneged on wherein the examiner changed his mind.

Applicant specifically asked the examiner if he would allow his claims if Applicant made the proper adjustments. Once again the Examiner stated he would need time to evaluate the claims again and search for more prior art and it was at this point that Applicant hung up the phone on the Examiner and Applicant's partners told the Examiner good bye.

February 19, 2009 Interview

The following is an account of the telephonic interview between the Examiner and the undersigned at 11:00am EST on February 19, 2008.

The Examiner and the undersigned started by discussing claims 1-4 in the 11/ application. The Examiner believed that these claims would likely be rejected by some combination of references



- and the undersigned and the Examiner discussed *Stanley, Lane and Kowalski* as a possible combination that would lead to a rejection.

The Examiner and the undersigned had a long discussion of *Kowalski* and simply "agreed to disagree". The undersigned pointed out to the Examiner that he did not think that *Kowalski* is a proper reference in the sense that the undersigned does not believe one having ordinary skill in the art would look to *Kowalski* to arrive at claims 1 and 2. He disagreed and indicated that *Kowalski* was only being used for the teaching of providing a photovoltaic canopy over something - and for no other reason.

The Examiner and the undersigned then talked at length about the claim regarding the "plurality of support columns" and the Examiner indicated that these claims would likely be rejected under 112 because he felt that there was no support in the application for a plurality of support columns holding up only one photovoltaic canopy. The undersigned pointed out that he felt there was support in the specification, but was unable to quote a section that showed this. The Applicant has subsequently pointed out to the undersigned that support can be found at paragraph 52 of the application.

Finally, the undersigned and the Examiner discussed the new independent claim relating to a photovoltaic canopy over a plurality of parking spaces. The Examiner felt that Applicant needed to provide further structure and definition to the

embodiment. More specifically, the Examiner suggested defining more precisely what a parking space was - as this could be useful in narrowing down the scope of any subsequent application of references. The Examiner further suggested defining the claims with more structure - such as how the supporting structure is laid out and holds up the canopy. The Examiner pointed out that he felt the claims were too broad and that further definition and structure in the claim language would be useful to overcome the rejections.

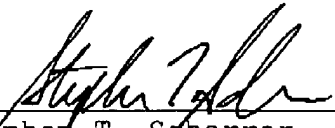
Then the undersigned and the Examiner turned to the claims of the 10/ application. The undersigned discussed the "self-regenerative" nature of the new claims in that a light source powered by the photovoltaic canopy also emits light onto the photovoltaic canopy to further generate electricity. The Examiner seemed amenable to that as a potential way of distinguishing over the references. However, the Examiner made clear that there must be sufficient disclosure in the specification and sufficient structure to understand what is claimed. In addition, the Examiner stated that he would have to review the references.

The undersigned discussed with the Examiner the final Office Action that had been submitted but not yet mailed in the 10/ application. The Examiner was apologetic and said he misunderstood that we would be discussing those claims and would have informed the undersigned sooner if he had known that the undersigned wished

to discuss the claims of the 10/ application prior to the interview  
on February 19, 2009.

The telephonic interview ended soon thereafter.

Respectfully submitted,

  
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(Reg. No. 45,080)  
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